

AB:AP

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- against -

MATTHEW PENBERG,

Defendant.

TO BE FILED UNDER SEAL

COMPLAINT AND AFFIDAVIT
IN SUPPORT OF
APPLICATION FOR AN
ARREST WARRANT

(18 U.S.C. § 875(c))

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No. 23-MJ-341

EASTERN DISTRICT OF NEW YORK, SS:

DANIEL WHITE, being duly sworn, deposes and states that he is a Detective with the New York City Police Department (“NYPD”), duly appointed according to law and acting as such.

Upon information and belief, on or about and between February 23, 2023 and March 26, 2023, within the Eastern District of New York, the defendant MATTHEW PENBERG did transmit in interstate or foreign commerce communications containing a threat to injure the person of another, to wit communications threatening serious bodily injury and death to Jane Doe and John Doe and a relative of John Doe, whose identities are known to the deponent.

(Title 18, United States Code, Section 875(c))

The source of your deponent's information and the grounds for his belief are as follows¹:

1. I am a Detective with the New York City Police Department ("NYPD").

I have been employed by NYPD for eleven years and I have been a detective for two years. I am currently assigned to the Threat Assessment Unit. In that position, I have had significant training and experience investigating a wide range of crimes involving violence and threats of violence, including threats made by telephone, online, and through other electronic means.

The information in this Complaint comes from, among other things, a review of documents, audio recordings, emails and reports provided by other law enforcement officers and personnel. Unless specifically indicated, all conversations and statements described in this affidavit are related in sum and substance and in part only. Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all of the relevant facts and circumstances of which I am aware.

2. On or about and between February 23, 2023 and March 26, 2023, the defendant MATTHEW PENBERG left a series of disparaging, threatening, misogynistic and racist voicemails at the office of a New York City Councilperson (the "Office") located in the Eastern District of New York where Jane Doe and John Doe are employed. In some of those phone calls, PENBERG identified himself by name.

3. In particular, on March 24, 2023 (the "March 24 Voicemail"), the defendant MATTHEW PENBERG left a voicemail at the Office and called Jane Doe a

¹ Because this affidavit is being submitted for the limited purpose of establishing probable cause to arrest, I have not set forth every fact learned during the course of this investigation.

“fucking nasty bitch.” PENBERG also made a reference to John Doe and stated, in sum and substance, that “I hope I get to fucking see you in the streets one day. You’re going to have to fucking fight me to the death. You piece of shit.” PENBERG added that, “I hope your son’s there too,” in an apparent reference to John Doe’s minor son, and that “I’ll fucking stomp him out.” PENBERG also threatened John Doe’s family by stating, in sum and substance, “when I come up [from jail]. I’ll fucking find you and your fucking family.”

4. On or about March 26, 2023 (the “March 26 Voicemail”), the defendant MATTHEW PENBERG left a voicemail at the Office stating in sum and substance that, “this message is for the five foot-five kike who hates niggas,” in an apparent reference to John Doe. PENBERG then added that “I just sent [Jane Doe] another pic of my cock.” PENBERG ended that voicemail by stating, “I’m ready to die. I’m ready to fucking kill. Are you, you fucking kike?” PENBERG referenced himself by name in that voicemail.

5. On March 24 and 26, 2023, the defendant MATTHEW PENBERG used a cell phone with a Google phone number to leave the March 24 and March 26 Voicemails at the Office.

6. Based on my training and experience, I understand that Google operates data center facilities, which use large drives to provide Google’s services. These data centers are located throughout the United States.

7. Prior to the March 24 and March 26 Voicemails, on February 23, 2023, the defendant MATTHEW PENBERG left a harassing voicemail at the Office (the “February 23 Voicemail”), directed at Jane Doe, in which he reported his home address to be a location in Alexandria, Virginia.

8. I have listened to the February 23, March 24 and March 26 Voicemails and I believe that they were all made by the defendant MATTHEW PENBERG for several reasons: (a) the voice is the same in each of the calls, (2) PENBERG referenced himself by name in the March 26 Voicemail, (3) the targets of the threats are the same, and (4) the language used by PENBERG is the same.

9. It is respectfully requested that this Court issue an order sealing, until further order of the Court, all papers submitted in support of this application, including the application and arrest warrant. I believe that sealing these documents is necessary because the warrant is relevant to an ongoing investigation and the target may not be arrested immediately upon the filing of the warrant. Based upon my training and experience, I have learned that criminals or persons who know they are under investigation actively search for criminal affidavits and arrest warrants via the internet and disseminate them through various forums to other online criminals as they deem appropriate. Premature disclosure of the contents of this affidavit and related documents thus may have a significant adverse impact on the continuing investigation and may severely jeopardize its effectiveness and compromise the safety of law enforcement officers.

WHEREFORE, your deponent respectfully requests that an arrest warrant be issued for the defendant so that he may be dealt with according to law.

DET. Daniel P. White
DANIEL WHITE
Detective, New York City Police Department

Sworn to before me this
7th th day of April, 2023

VIA TELEPHONE

[REDACTED]
THE HONORABLE SANKET J. BULSARA
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK